

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KYLE FINNELL,

Plaintiff,

vs.

TIMOTHY EPPENS,

Defendant.

: Case No. 1:20-cv-337

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: District Judge Jeffery P. Hopkins

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: Magistrate Judge Peter B. Silvain, Jr.

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ORDER

This matter is before the Court on three motions to compel discovery filed by Plaintiff (Doc. #s 49, 50, and 54) and a motion to extend the discovery cut-off and dispositive motion deadlines (Doc. #53).

As to Plaintiff's motions to compel, these motions are premature. At this time, Defendant's Motion to Dismiss (Doc. #37) is pending and the scheduling order that was previously entered in this case was vacated because of the pending Motion to Dismiss. (*See* Notation Order dated Jan. 23, 2023). Additionally, the Court notes that two of Plaintiff's motions to compel are essentially discovery requests directed at Defendant Eppens. (*See* Doc. #s 49, 50). Discovery requests are not permitted to be filed of record in this manner, even after the entry of a scheduling order. Fed. R. Civ. P. 5(d). Instead, if and when a scheduling order is entered in this case, Plaintiff should serve Defendant's attorney(s) directly with such requests; intervention of the Court is neither required nor permitted in most instances. *See* S.D. Ohio Civ. Local Rules 5.4 and 37.1. Accordingly, Plaintiff's motions to compel (Doc. #s 49, 50, and 54) are **DENIED** without prejudice.

In Plaintiff's motion to extend the discovery cut-off and dispositive motion deadlines, Plaintiff states that he has been unable to obtain the discovery necessary for his case, thereby necessitating the deadlines for discovery and dispositive motions to be extended. (Doc. #53). However, as noted above, the scheduling order that was previously set in this case was vacated because of the pending Motion to Dismiss. (*See* Notation Order dated Jan. 23, 2023). Accordingly, at present, there is no scheduling order and, thus, no deadlines to extend. Therefore, Plaintiff's motion to extend the discovery cut-off and dispositive motion deadlines (Doc. #53) is **DENIED** without prejudice.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's motions to compel (Doc. #s 49, 50, and 54) are **DENIED** without prejudice; and
2. Plaintiff's motion to motion to extend the discovery cut-off and dispositive motion deadlines (Doc. #53) is **DENIED** without prejudice.

July 19, 2023

s/Peter B. Silvain, Jr.

Peter B. Silvain, Jr.
United States Magistrate Judge